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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/844,593	04/27/2001	Juan Bautista	11713	1706	
39747 75	590 03/31/2005		EXAM	EXAMINER	
GOLDSTEIN LAW OFFICES, P.C. 2071 CLOVE ROAD - 204 STATEN ISLAND, NY 10304			SMITH, RIG	SMITH, RICHARD A	
			ART UNIT	PAPER NUMBER	
	,		2859		
			DATE MAILED: 03/31/2009	DATE MAILED: 03/31/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Application No. Digital Association Summary Application No. Digital Association Summary Digital Digital Dig					An /			
## Defice Action Summary ## Art Unit ## R. Alexander Smith ## Art Unit ## R. Alexander Smith ## 2559 ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. • Enterocus of time may be available under the provisions of 3°C FR 1.10(a), in no event, however, may a reply be timely filled. • If the period for reply is pecified above, the maintime statutions period will apply and will explore SM (b) MONTHS from the realing date of his communication for reply specified above, the maintime statutions period will apply and will explore SM (b) MONTHS from the realing date of his communication for reply specified above, the maintime statutions period will apply and will explore SM (b) MONTHS from the realing date of his communication for the period of the communication of the communication of the period of the communication of the period of the communication of the communication of the period of the communication of the communication of the period o			Application No.	Applicant(s)				
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DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

In this case, the references listed on page 2 of the specification have been cited by the examiner on the PTO-892.

Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. D404,323 to Jackson in view of U.S. 6,319,618 to Kelley et al.

Jackson discloses a system with most of the limitations of claims 1 and 2 including the incremental measurements (see figure 5).

Jackson does not teach the tip portion being swively coupled and having a slot for receiving a free end of a length of wire.

Kelley et al. discloses a system wherein the tip portion can be plain (figure 7) or swively (figures 5 and 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system, taught by Jackson, to include a swively tip portion, as taught by Kelley et al., in order to eliminate rotational twisting and loads on the wire being pulled through the conduit.

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4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

3,528,644 to Scott in view of U.S. 3,081,977 to Weisgerber and U.S. 1,858,997 to Lewin.

Scott discloses a system with many of the limitations of claims 1 and 2 except for incremental measurements along the length of the tape and the tip portion being swively coupled and having a slot for receiving a free end of a length of wire.

Weisgerber discloses a system wherein incremental indicia may be provided along the length of the tape in order to measure the amount of wire or for wires that must be terminated at intermediate floors (column 2, lines 8-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system, taught by Scott, to include the incremental measurements in order to measure the amount of wire or for wires that must be terminated at intermediate floors, as taught by Weisgerber.

Lewin discloses a system wherein the tip portion can be plain or swively (lines 83-85). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system, taught by Scott, to include a swively tip portion, as taught by Lewin, in order to eliminate rotational twisting and loads on the wire being pulled through the conduit.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related systems.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R. Alexander Smith Patent Examiner

Technology Center 2800

RAS March 28, 2005